

The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

ALDERWOOD SURGICAL CENTER, LLC, a
Washington limited liability company;
NORTHWEST NASAL SINUS CENTER P.S.,
a Washington professional service corporation;
and JAVAD A. SAJAN, M.D.,

Defendants.

NO. 2:22-cv-01835-RSM

**PERKINS COIE'S MOTION TO
WITHDRAW AS COUNSEL AND
TEMPORARILY STAY THE CASE**

NOTE ON MOTION CALENDAR:
April 17, 2024 pursuant to LCR 7(i)
(otherwise May 3, 2024)

TELEPHONIC HEARING REQUESTED
Oral Argument Requested

PERKINS COIE'S MOTION TO WITHDRAW AS
COUNSEL AND TEMPORARILY STAY THE CASE -1
(2:22-cv-01835-RSM)

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I. INTRODUCTION and BACKGROUND

On Friday, April 12, 2024, the State filed a motion for sanctions seeking to hold Defendants and Defendants' counsel "jointly and severally liable" for alleged discovery misconduct. Dkt. 96. Perkins Coie seeks leave to withdraw as counsel of record for Defendants because the Rules of Professional Conduct require termination of the representation of Defendants in this litigation. Perkins Coie also respectfully requests the Court temporarily stay the case to permit Defendants to obtain successor litigation counsel.

Given the nature of this request, earlier today Perkins Coie requested and were denied a telephonic motion pursuant to Local Civil Rule 7(i). Defendants' also requested the State extend the pending deadlines or to a temporary stay. The State did not agree. Sanders Decl., ¶ 5, Ex. A.

II. AUTHORITY AND ARGUMENT

Under Local Civil Rule ("LCR") 83.2(b), "no attorney shall withdraw an appearance in any cause, civil or criminal, except by leave of court." LCR 83.2(b)(1). The Court has broad discretion in evaluating a motion to withdraw. *Jinni Tech, Ltd. v. RED.com, Inc.*, No. C17-0217JLR, 2019 WL 2578591, *2 (W.D. Wash. June 24, 2019). Courts may consider the Washington Rules of Professional Conduct ("RPC"), including RPC section 1.16(a), which requires an attorney to withdraw from representing a client in certain circumstances which are applicable here.

A. Professional considerations under RPC 1.16(a) constitute sufficient and justifiable reason to grant a withdrawal of counsel.

RPC 1.16(a) applies here and requires withdrawal of counsel. Declaration of James Sanders ("Sanders Decl."), ¶ 2; *see, e.g., In re Wixom*, 182 Wash. App. 881 (2014). Perkins Coie's obligations under RPC 1.6 limit Perkins Coie from disclosing additional information in this motion. *See* RPC 1.6(b)(6); Washington State Bar Ass'n Op. 202101 (2021).

We advised Defendants of the need to obtain successor litigation counsel and understand that Defendants are in the process of identifying such counsel. Sanders Decl., ¶ 3.

B. Perkins Coie certifies that it has advised its business entity clients in accordance with LCR 83.2(b)(4).

Generally, business entities must be represented by counsel. LCR 83.2(b)(4). When an attorney withdraws from representing a business entity, the attorney must certify to the court that they advised the entity of this requirement and that failure to comply may result in dismissal of the entity's claims or an entry of default against it. *Id.*

Perkins Coie has advised Alderwood Surgical Center, LLC and Northwest Nasal Sinus Center P.S. that under the Court's Local Civil Rules each must be represented by counsel and that failure to obtain a replacement attorney by the effective date of the withdrawal may result in an entry of default against the entities. Sanders Decl., ¶ 4. Perkins Coie has complied with the LCR 83.2(b)(4) requirements for withdrawal as counsel.

C. The Court should temporarily stay all pending deadlines to allow Defendants to obtain successor counsel.

A district court has broad discretion to stay a proceeding incident to its power to control its own docket. *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005) (citing *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936)). In determining whether to grant a motion to stay, the court considers competing interests, including: "the possible damage which may result from the granting of a stay," "the hardship or inequity which a party may suffer in being required to go forward," and "the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay." *Ali v. Trump*, 241 F. Supp. 3d 1147, 1152 (W.D. Wash. Mar. 17, 2017) (quoting *Lockyer*, 398 F.3d at 1110). Each of these factors weighs in favor of a temporary stay here to allow Defendants to obtain successor litigation counsel.

III. CONCLUSION

For the above-stated reasons, Perkins Coie seeks an order to withdraw as counsel and temporarily staying all deadlines in this litigation to allow Defendants to obtain successor

1 counsel.

2 DATED this 17th day of April 2024.

3 *I certify this memorandum contains 653 words, in*
4 *compliance with the Local Civil Rules.*

5 By: /s/ James Sanders

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23 Center, LLC, a Washington limited liability
24 company; Northwest Nasal Sinus Center P.S.,
25 a Washington professional service
Corporation; and Javad A. Sajan, M.D.

CERTIFICATE OF SERVICE

I certify under penalty of perjury that on April 17, 2024, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send a notification of the filing to the email addresses indicated on the Court's Electronic Mail Notice List, including opposing counsel. I also served a copy of this Motion on the client.

s/James Sanders

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